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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/851,040	05/05/97	VISSER	B 17342-000500

PM31/0928

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

EXAMINER

MAI, L

ART UNIT

PAPER NUMBER

3621

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DATE MAILED:

09/28/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/851,040

Applicant(s)
Vissner

Examiner
Lanna Mai

Group Art Unit
3621



☒ Responsive to communication(s) filed on Jul 6, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-4, 6-16, and 18-36 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-4, 6-16, and 18-36 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3621

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-16, 18-36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Searcy. Each of the store rooms (66, 64, 116) is a separate store by itself, separating walls (80, 70, 68, 120, 124, 22, 24), aisle is the space that enables walking through; outside entrance (A, B, C). The single door is equivalent to the double doors. Each store (room) would be managed by a different sales staff as commonly done in most department stores such as Macy's, Nordstrom, Bloomingdale's, etc.

In addition, the examiner takes Judicial Notice that in most department stores such as Macy's, Nordstrom, Bloomingdale's, etc., there are separate sections/departments (with orthogonal walls and distinct entrances) reserved for special merchandises such as designer's, furs, evening wears, etc. that could be considered as "separate stores" which are managed by separate sales staff from other sections/departments. Customers would be able to walk through those sections/departments and able to view the merchandises in other sections/departments when looking down the aisle/walk-through spaces.

Furthermore, the examiner takes Judicial Notice that in many malls such as Potomac Mills, Tysons Corner, Pentagon City Mall located in Northern Virginia, there are separate stores (with orthogonal walls and multiple distinct outside entrances) each specializes in one type of

Art Unit: 3621

merchandises such as furniture, clothing, toys, etc. that is managed by their owned salestaff.

Since most mall lay-outs includes distinct wings, many stores would have both inside and outside entrances and the doors are usually aligned because most stores run along a straight elongated corridor. Customers would be able to walk through those stores and able to view the merchandises in other stores when looking down the aisle/walk-through spaces because stores typically have glass fronts and merchandise are displayed very close to the entrance.

The merchandise recited in claim 16 is design choices. Claims 25-36 are inherent method of presenting inventory items in the department stores or stores in malls.

Applicant's arguments filed 7-06-98 have been fully considered but they are not persuasive. Responding to applicant's argument of claims 1 and 25 that Searcy's store rooms do not have outside entrances. It is noted that the term "inside", "outside" are merely relative. Each of Searcy's store does have an outside entrance; for example, stores (64) and (66) use the same outside entrance (top right entrance), stores (66, 116) use the same outside entrance (top left entrance).

As for applicant's argument with respect to claim 11, it is common and well known for certain stores (such as restaurants) to have two doorways, one for entry and the other for exit on the same wall. As for applicant's argument with respect to claim 16, it is noted that the merchandise is a matter of design choices. With respect to applicant's argument regarding the step of "selecting an item" and "purchasing an item" in claim 21, they are typically what a normal customer would do in a store.


Art Unit: 3621

As for applicant's argument regarding the examiner's Judicial Notice, it is noted that any mall would have similar lay-out as those pointed out by the examiner. In fact, the malls in Denver or San Francisco would be the same as those in Northern Virginia. Department stores such as Macy's and Norstrom's are available in San Francisco, Denver and the lay-out are the same for all Macy's (or Norstrom's) regardless of the location.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to examiner L. Mai at telephone number (703) 308-2168.



Lanna Mai
Primary Examiner

lm

9-25-98